

AMENDED IN ASSEMBLY MAY 27, 1999
AMENDED IN ASSEMBLY MAY 24, 1999
AMENDED IN ASSEMBLY MARCH 25, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 505

Introduced by Assembly Member Wright

February 18, 1999

An act to add *Sections 12071.2 and 12071.3 to, and to add Article 8 (commencing with Section 12120) to Chapter 1 of Title 2 of Part 4 of, the Penal Code, relating to firearms.*

LEGISLATIVE COUNSEL'S DIGEST

AB 505, as amended, R. Wright. Firearm safety standards.

(1) Existing law prohibits a person from selling, leasing, or transferring a firearm without a license as specified. A licensee is required to conspicuously post within the licensed premises a specified notice regarding the keeping of loaded firearms.

This bill would require every person licensed to sell, lease, or transfer a firearm, at the time of a retail delivery of a firearm, to provide a copy of the above-mentioned notice requirement to the purchaser.

(2) Under existing law, no person may produce, sponsor, operate, or otherwise organize a gun show or event unless that person possesses a valid certificate of eligibility from the Department of Justice.

In addition, this bill also would prohibit any member of the public who is under 18 years of age from being admitted to a

gun show or event unless accompanied by a legal guardian or parent.

(3) Existing law regulates the manufacture and sale of firearms in California.

This bill would require every model of pistol, revolver, or other firearm capable of being concealed upon the person that is manufactured for sale in California on or after January 1, 2000, to satisfy specified safety tests and standards. The bill would require every licensed manufacturer of firearms in this state and every wholesaler who imports firearms into this state for sale to annually verify that every new or significantly modified model of firearm subject to these provisions that he or she manufactures or imports is in compliance with these standards by certification under penalty of perjury on a form developed by the Attorney General. The bill would prohibit any person who is licensed to sell firearms or who imports personal handguns from importing for resale any handgun that was manufactured in any state after January 1, 2000, if that handgun is not in compliance with these standards. Any person who knowingly or intentionally misrepresents information in the certification would be liable for a specified civil penalty. By expanding the crime of perjury, the bill would impose a state-mandated local program.

Upon determining that a firearm model is not in compliance with the applicable standards, the bill would authorize the Attorney General to direct the manufacturer or wholesaler to cease the manufacture, distribution, and sale of that model of firearm and to recall all unsold firearms of that model from commercial outlets. Any person who manufactures a substandard firearm or who continues to manufacture a substandard firearm in contravention of the Attorney General's direction would be liable for a specified civil penalty. The bill would specify that a district attorney or city attorney is not precluded from filing a civil action for any violation of the above provisions.

The bill additionally would require the Attorney General to annually conduct random testing of not less than 10% of the firearm models certified each year as being in compliance with specified requirements. This requirement would be inapplicable if the Attorney General provides specified



certification that he or she has adopted a testing approach that meets or exceeds this requirement.

The bill also would authorize the Department of Justice to charge every licensed manufacturer of firearms in this state, and any manufacturer who sells, intends to sell, or causes to be sold in this state any model of firearm subject to these provisions, an annual fee not exceeding the costs of administering the department's duties under these provisions.

The bill also would require every person who is licensed to sell firearms under a specified provision, to provide purchasers of handguns manufactured after the effective date of this bill with written notice that the handgun conforms to the safety requirements of this article.

The bill also would require the Department of Justice, on and after July 1, 2000, to compile, publish, and thereafter maintain an Internet website listing all of the pistols, revolvers, and other firearms capable of being concealed upon the person that have been determined to meet specified testing procedures. The bill would authorize the department to charge every person in this state who is licensed as a manufacturer of firearms pursuant to federal law, and any person in this state who manufactures or causes to be manufactured, imports into the state for sale, keeps for sale, or offers or exposes for sale any pistol, revolver, or other firearm capable of being concealed upon the person in this state, an annual fee not exceeding the costs of preparing, publishing, and maintaining the Internet website. Any person who fails to pay this fee would be excluded from the website.

The bill would state the intent of the Legislature that the Department of Justice pursue an internal loan from special fund revenues available to the department to cover startup costs for the unsafe handgun program established pursuant to the bill. The bill would require the department to repay any loan with the proceeds of fees collected under that program within 6 months.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 12071.2 is added to the Penal*
2 *Code, to read:*

3 *12071.2. No member of the public who is under the*
4 *age of 18 years shall be admitted to a gun show or event*
5 *unless accompanied by a legal guardian or parent.*

6 SEC. 2. *Section 12071.3 is added to the Penal Code, to*
7 *read:*

8 *12071.3. Every person licensed under Section 12071*
9 *shall, at the time of the retail delivery of a firearm,*
10 *provide a copy of the notice required by paragraph (7)*
11 *of subdivision (b) of Section 12071 to the purchaser*
12 *disclosing the duty imposed by Section 12071 upon any*
13 *person who keeps a loaded firearm.*

14 SEC. 3. Article 8 (commencing with Section 12120) is
15 added to Chapter 1 of Title 2 of Part 4 of the Penal Code,
16 to read:

17

18 Article 8. California Sporting and Self Defense
19 Handgun Safety Standards Act

20

21 12120. (a) The Legislature finds that like other tools
22 and recreational instruments, firearms are subjected to a
23 wide variety and intensity of use. Law enforcement
24 firearms will generally be subjected to the greatest
25 demands for reliability and life span. To assist law
26 enforcement administrators in making their handgun
27 selections, the federal Department of Justices' National
28 Institute of Justice has developed testing standards for
29 law enforcement. The Legislature finds that those
30 standards are appropriate. The Legislature further finds
31 that it is appropriate to establish different standards for
32 handguns that are primarily used for sporting and self
33 defense purposes.



(b) This article shall apply to every model of pistol, revolver, or other firearm capable of being concealed upon the person that is manufactured in any state and then sold in California on or after January 1, 2000.

(c) As used in this article, “pistol,” “revolver,” or “firearm capable of being concealed upon the person” shall have the same meaning as provided in Section 12001, except the standards and test procedures set forth in this article shall not apply to the following:

(1) Muzzle loading and black powder firearms of any type.

(2) Firearms primarily intended for formal target shooting, including firearms whose trigger pull is designed to be less than three pounds or 1.36 kilograms.

(3) Any firearm capable of being concealed upon the person that is listed as a curio or relic, as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(4) Single action revolvers.

(5) Frames that are used as the basis for custom made handguns.

(6) Handguns approved by any California law enforcement agency on or after the effective date of this bill for either duty or off-duty use by a peace officer who owns the handgun or has the handgun in his or her possession. The exemption from standards and test procedures provided pursuant to this paragraph shall not apply to any person who is not a peace officer.

(d) When an approved existing model has significant design or manufacturing changes, retesting and recertification will be necessary. Changes to grips, sights, barrel length, finish, name or any external nonsafety related feature is not cause for retesting or recertification.

(e) The Attorney General may raise or lower the number of rounds required by Section 12121, if after public hearing and the presentation of expert testimony, it is deemed necessary.

12121. Every model of pistol, revolver, or other firearm capable of being concealed upon the person that is subject to this article shall satisfy all of the following tests:

1 (a) Pressure testing of the barrel that is in compliance
2 with the criteria and test procedures of the applicable
3 performance standards of the American National
4 Standards Institute for Commercial Manufacturers.

5 (b) Drop safety testing as specified by the federal
6 Department of Justices' National Institute of Justice.

7 (c) Model qualification firing requirement, as
8 described by the federal Department of Justices' National
9 Institute of Justice except that 300 rounds will be fired.

10 12122. (a) (1) Every person who is licensed as a
11 manufacturer of firearms pursuant to Chapter 44
12 (commencing with Section 921) of Title 18 of the United
13 States Code who manufactures firearms in this state and
14 every wholesaler, as defined in subdivision (h) of Section
15 12001, who imports firearms into this state for sale shall
16 annually verify that every new or significantly modified
17 model of pistol, revolver, or other firearm capable of
18 being concealed upon the person that was manufactured
19 six months after the effective date of this article or later,
20 and that he or she manufactures or imports for sale in this
21 state, is in compliance with the standards defined in
22 Section 12121. Notice of compliance shall be by
23 certification under penalty of perjury that each model
24 meets the standards defined in Section 12121 on a form
25 developed by the Attorney General.

26 (2) No person who is licensed to sell firearms or who
27 imports personal handguns into this state shall import for
28 resale into this state any handgun that was manufactured
29 in any state after January 1, 2000, if that handgun is not in
30 compliance with standards defined in Section 12086.

31 (b) If the Attorney General has cause to believe that
32 a specific model covered by this article is not in
33 compliance with Section 12121, he or she may direct that
34 an independent test be conducted at an appropriate
35 testing facility. The cost of the testing shall be the
36 responsibility of the manufacturer.

37 (c) Notwithstanding subdivision (b), the Attorney
38 General shall annually conduct random testing of not less
39 than 10 percent of the firearm models certified each year
40 as being in compliance with the requirements of Section

1 12121. This subdivision shall not apply if the Attorney
2 General certifies in a report to both the Assembly Public
3 Safety Committee and the Senate Public Safety
4 Committee that he or she has adopted a testing approach
5 that meets or exceeds the random testing requirement of
6 this subdivision.

7 (d) Every person who knowingly or intentionally
8 misrepresents any information contained in the notice of
9 compliance required by this section, shall be liable for a
10 civil penalty not to exceed twenty-five thousand dollars
11 (\$25,000) for each violation.

12 12123. Every person who manufactures any firearm
13 subject to this article that is not in compliance with the
14 standards defined in Section 12086 shall be liable for a civil
15 penalty in the amount of one thousand dollars (\$1,000)
16 per firearm manufactured in violation of the standards.

17 12124. (a) If the Attorney General determines that a
18 firearm is not in compliance with the standards defined
19 in Section 12121, the Attorney General may, by certified
20 letter, direct the manufacturer or wholesaler to cease the
21 manufacture, distribution, and sale of that model of
22 firearm and to recall all unsold firearms of that model
23 from commercial outlets. The certified letter shall set
24 forth the specific grounds upon which the Attorney
25 General has determined that model of firearm is not in
26 compliance with the standards.

27 (b) Every person who continues to manufacture any
28 firearm subject to this article that is not in compliance
29 with the standards defined in Section 12121, in violation
30 of the direction of the Attorney General shall be liable for
31 a civil penalty of not less than twenty-five thousand
32 dollars (\$25,000) and not to exceed one hundred thousand
33 dollars (\$100,000) for each violation or, for continuing
34 violations, for each day that the violation continues after
35 the day the person receives the certified letter from the
36 Attorney General.

37 (c) The Attorney General may recover litigation costs
38 from any person found liable for a civil penalty pursuant
39 to subdivision (b).

1 12125. The Department of Justice may charge every
2 person in this state who is licensed as a manufacturer of
3 firearms pursuant to Chapter 44 (commencing with
4 Section 921) of Title 18 of the United States Code, and any
5 manufacturer who sells, intends to sell, or causes to be sold
6 any model of pistol, revolver, or other firearm capable of
7 being concealed upon the person in this state, an annual
8 fee not exceeding the costs of administering the
9 department's duties under this article.

10 12126. Every person who is licensed to sell firearms
11 pursuant to Section 12070 shall provide purchasers of
12 handguns manufactured after the effective date of this
13 article, with written notice that the handgun conforms to
14 the requirements described in Section 12121. The content
15 of the notice shall be developed by the Attorney General
16 and provided to all licensed dealers.

17 12127. (a) On and after July 1, 2000, the Department
18 of Justice shall compile, publish, and thereafter maintain
19 an Internet website listing all of the pistols, revolvers, and
20 other firearms capable of being concealed upon the
21 person that have been certified pursuant to subdivision
22 (a) of Section 12122, have been determined to meet all
23 the tests included in Section 12121 pursuant to any testing
24 conducted under subdivisions (b) and (c) of Section
25 12122, and may be sold in this state pursuant to this title.
26 The Internet website shall list, for each firearm, the
27 manufacturer, model number, and model name.

28 (b) The department may charge every person in this
29 state who is licensed as a manufacturer of firearms
30 pursuant to Chapter 44 (commencing with Section 921)
31 of Title 18 of the United States Code, and any person in
32 this state who manufactures or causes to be
33 manufactured, imports into the state for sale, keeps for
34 sale, or offers or exposes for sale any pistol, revolver, or
35 other firearm capable of being concealed upon the
36 person in this state, an annual fee not exceeding the costs
37 of preparing, publishing, and maintaining the Internet
38 website pursuant to subdivisions (a) and (b). Any person
39 who fails to pay this fee may be excluded from the
40 website.

1 12128. Notwithstanding Section 12124, a district
2 attorney or city attorney is not precluded from filing a
3 civil action for a violation of this article.

4 ~~SEC. 2.~~

5 *SEC. 4.* The provisions of this act shall become
6 operative July 1, 1999.

7 ~~SEC. 3.~~

8 *SEC. 5.* It is the intent of the Legislature that the
9 Department of Justice pursue an internal loan from
10 special fund revenues available to the department to
11 cover startup costs for the program established pursuant
12 to Section 1 of this act. Any loan shall be repaid with the
13 proceeds of fees collected under that program within six
14 months.

15 ~~SEC. 4.~~

16 *SEC. 6.* No reimbursement is required by this act
17 pursuant to Section 6 of Article XIII B of the California
18 Constitution because the only costs that may be incurred
19 by a local agency or school district will be incurred
20 because this act creates a new crime or infraction,
21 eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section
23 17556 of the Government Code, or changes the definition
24 of a crime within the meaning of Section 6 of Article
25 XIII B of the California Constitution.